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Press Release

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**ATTORNEY GENERAL DARRELL MCGRAW FILES
PETITION FOR CONTEMPT AGAINST ELKINS MEMORIAL GARDENS;
CEMETERY FAILED TO PAY REFUNDS FOR CONSUMERS
AS ORDERED BY COURT**

Attorney General Darrell McGraw filed a petition Wednesday to compel a Randolph County cemetery to pay refunds to consumers as required by court order. The petition alleges the cemetery has paid only a fraction of what it was ordered to pay by the Circuit Court of Randolph County, in spite of being allowed to pay its debt to consumers in installments over a six month period.

Last year, Attorney General McGraw's Consumer Protection Division filed suit against Heritage Group, Inc., d/b/a Elkins Memorial Gardens, an Elkins-area cemetery which sold preneed burial crypts in a nonexistent mausoleum and then squandered consumers' money before the mausoleum could be built. Since 1996, the company's salesmen had appeared at consumers' homes offering steep discounts on burial crypts if consumers purchased them in advance. They promised reluctant consumers that the mausoleum would be built right away. The company also ignored state laws requiring sellers of preneed burial crypts to set aside 40% of sales proceeds in trust, to safeguard consumers' money until the crypts were needed. Over the years, Elkins Memorial Gardens received more than \$100,000 from area consumers to build the mausoleum, but by 2003, most all of that money was gone and there was still no mausoleum in sight.

In cases where customers passed away before the mausoleum could be built, the cemetery refused to refund their money and told grieving relatives that their only alternative was to entomb the deceased in an unattractive concrete outbuilding on the cemetery grounds. Attorney General McGraw produced pictures showing piles of garbage strewn around the bunker-like structure, as well as stacks of cemetery inventory and seemingly-abandoned vehicles nearby, and charged Elkins Memorial Gardens with violating state law that requires a cemetery to provide accommodations which are similar in size, style and quality anytime substitutions become necessary.

The owners of the cemetery agreed to settle the case with Attorney General McGraw in July, 2003, and were ordered by Circuit Judge John L. Henning to pay refunds totaling \$109,488.01, in installments. So far, the owners have produced only \$20,000 of the \$109,488.01, and the January 20, 2004 deadline for final payment has passed.

The Petition filed by Attorney General McGraw on Wednesday asks the Court to find the cemetery, its owner, Okey Phares, and its former owner, John Phares, in contempt, and to incarcerate John and Okey Phares until they comply with the Court's July 2003 order. The Petition further requests civil penalties of \$5,000, for the defendants' disobedience of the Court order, as well as penalties for each additional month that the defendants continue to be late.

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